

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION**

Case No.:

JESSICA HERNANDEZ,

Plaintiff,

vs.

UNITED STATES OF AMERICA,

Defendant.

_____ /

COMPLAINT

Plaintiff Jessica Hernandez, by and through the undersigned counsel and pursuant to the Federal Tort Claims Act (28 U.S.C. §§ 2671 *et. seq*), alleges and states as follows:

PRELIMINARY STATEMENT

1. Plaintiff Jessica Hernandez brings this action against Defendant United States of America (“Defendant”) under the Federal Torts Claims Act (“FTCA”) for the negligence of the United States Postal Service (“USPS”), through its employee or agent, James Harris, that occurred on November 16, 2020, specifically the negligent operation, maintenance, or control of a USPS vehicle causing a crash with Plaintiff’s vehicle in Boynton Beach, Palm Beach County, Florida.

PARTIES, JURISDICTION, & VENUE

2. This Court has jurisdiction over this action pursuant to 28 U.S. Code § 2674, in that this is a civil action arising under the FTCA.

3. Venue is proper in this district under 28 U.S.C § 1402(b) in that the negligent act or omission occurred in Palm Beach County, Florida.

4. At all times material hereto, Plaintiff Jessica Hernandez was a citizen of the United States of America and resided in Palm Beach County, Florida.

5. At all times material hereto, Defendant by Federal statute is responsible under the FTCA for any negligent acts and omissions of employees, agents, and apparent agents of the USPS, including but not limited to the Mr. Harris who negligently operated, maintained, or controlled a USPS vehicle causing a crash with Plaintiff's vehicle in Boynton Beach, Palm Beach County, Florida.

CONDITION PRECEDENT

6. Pursuant to 28 U.S.C. § 2401(b), formal notice of this claim was made upon Defendant by submitting Form 95-109 to the United States Postal Service as follows:

- a. On or about June 14, 2021, Marya M. Ryan, a paralegal at Berman Law Group, mailed Plaintiff's complete and executed SF95 form (dated 6/14/21), to Pamela Crone at the USPS Tort Claims office located at P.O. Box 6127, Fort Lauderdale, FL 33310. An affidavit of Marya M. Ryan ("Ryan Affidavit") is attached hereto as **Exhibit A**. Plaintiff's executed SF95 form is attached hereto as **Exhibit B**.
- b. On June 24, 2022, Ms. Ryan emailed a copy of the Plaintiff's SF95 form to several employees or agents of USPS, including Philip Roquemore, Kimberly Henley, Giovanni Rivera, and Gregory Cobb. Ms. Ryan's 7/24/2022 email to these USPS employees from June 24, 2022, is attached hereto as **Exhibit C**. Confirmation of delivery of Ms. Ryan's 7/24/2022 email to the USPS employees is attached hereto as **Exhibit D**. *See also* Ryan Affidavit at **Ex. A**.

c. On or about September 22, 2022, Ms. Ryan emailed a written demand package, including Plaintiff's executed SF95 form, to USPS to the attention of Michelle Browder, USPS Tort Claims, P.O. Box 6127, Fort Lauderdale, FL 33310. *See* Ryan Affidavit at **Ex. A**.

7. USPS Administrative Claim Procedures 235.1 and 253.2 provide,

253.1 Assistance

Any person who inquires about how to file a claim should be advised to contact the district tort claims coordinator, who will provide a full explanation of the claim procedures and an SF 95, *Claim for Damage, Injury, or Death*. However [sic], written tort claims can be filed and must be accepted at any Post Office or other postal facility.

253.2 General Instructions

Any postal employee who receives a completed tort claim form or other writing indicating that it is a claim should immediately stamp or write the date received on the claim and on any copies of the claim, and sign his or her name next to the date. The claim should then be forwarded to the district tort claims coordinator.

See USPS Administrative Support Manual, subchapter 25 on Tort Claims, attached hereto as **Exhibit E**.

8. Ms. Ryan's affidavit and her mailed correspondence to USPS and email correspondence to USPS with accompanying delivery confirmation emails establish that Plaintiff properly addressed her executed SF95 form to USPS. The mailings and emails with Plaintiff's executed SF95 form respectively had the appropriate stamping and attachments, and the SF95 forms were properly mailed and emailed. *See Barnett v. Okeechobee Hosp*, 283 F.3d 1232 (11th Cir. 2002); **Ex. A-E**.

9. On February 12, 2024, USPS sent a letter denying Plaintiff's claim, which is attached hereto as **Exhibit F**.

10. This Complaint is being filed within six (6) months of the USPS's 2/12/24 denial of Plaintiff's claim and therefore is being filed within the applicable statute of limitations. Further, all pre-requisites to filing this Complaint have been timely satisfied.

STATEMENT OF CLAIM

11. On November 16, 2020, Jessica Hernandez was driving eastbound on a side road that exits the Boynton Beach Mall onto Congress Avenue. Ms. Hernandez was passing by an intersection when USPS employee or agent, James Harris, was driving the USPS vehicle southbound, failed to stop at a stop sign, and collided with Plaintiff's vehicle on the driver's side.

12. Mr. Harris was at fault for this crash because Plaintiff had the right of way without any stop sign, and Mr. Harris should have fully stopped at the stop sign and yielded to Plaintiff's vehicle.

13. As a result of the negligence described above, Plaintiff Jessica Hernandez suffered severe, permanent injuries to her body, including but not necessarily limited to her lumbar spine and left shoulder.

COUNT I - NEGLIGENCE

14. Plaintiff re-alleges and incorporates by reference the allegations contained in paragraphs 1 through 13 and further alleges:

15. Defendant, through its employees or agents of USPS, including James Harries, had a duty to operate its USPS mail van in a safe and lawful manner and to otherwise abide by Florida's uniform traffic control laws.

16. Defendant, through its employees or agents of USPS, including James Harris, was negligent as follows:

- a. Failing to stop at a stop sign;
- b. Failing to yield right of way;
- c. Driving carelessly;
- d. Failing to keep a proper look-out;
- e. Violating right of way;
- f. Driving at an unlawful speed;
- g. Failing to use due care;

- h. Failing to maintain control of the vehicle;
- i. Failing to avoid an avoidable collision;
- j. Colliding the USPS vehicle into Plaintiff's vehicle; and
- k. Failing to drive reasonably under the circumstances.

17. As a direct and proximate result of the negligent acts and omissions of USPS, through Defendant's employees, agents, or apparent agents of USPS, Plaintiff Jessica Hernandez suffered bodily injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, aggravation of pre-existing injury, medical bills, loss of earnings, loss of ability to earn money.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff JESSICA HERNANDEZ demands judgment against Defendant UNITED STATES OF AMERICA for all damages permitted by law plus costs, as well as such other additional relief as the Court may determine to be just and proper.

Dated: April 24, 2024

Respectfully submitted,

/s/ Joshua A. Rieger, Esq.
Harry A. Shevin, Esq.
Florida Bar No.: 984450
Joshua A. Rieger, Esq.
Florida Bar No.: 1011092
Shevin Law Firm PLLC
7777 Glades Road, Suite 212
Boca Raton, Florida 33434
Phone: (561) 409-0138
Email: eservice@shevinlawfirm.com;
Attorneys for Plaintiff

EXHIBIT A

STATE OF FLORIDA

)
) ss

PALM BEACH COUNTY

AFFIDAVIT OF MARYA M. RYAN

BEFORE ME personally appeared Marya M. Ryan, and after being duly sworn, deposes and states:

1. I am over the age of 18, and I have personal knowledge of the facts set forth in this Affidavit.

2. I am a paralegal at Berman Law Group, in Boca Raton, Florida. I have been assigned to clients Sheila Figueroa and Jessica Hernandez since February 2021 and working on their personal injury claims against the United States Post Office ("USPS").

3. During the pandemic I began working from home, and continue to do so.

4. I took over these client's files in the Spring of 2021. On June 14, 2021, upon reviewing the file, I saw that we had received the completely filled out and signed SF95 forms from Ms. Figueroa and Ms. Hernandez. The forms included the sum certain specific damages of \$400,000.00 claimed by each of them. I personally mailed them to Pamela Crone at the Fort Lauderdale USPS Tort Claims address: P.O. Box 6127, Fort Lauderdale, FL 33310.

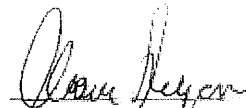
5. In June 2022, I noticed that USPS still had not acknowledged receipt of the completed SF95 forms.

6. Therefore, on June 24, 2022, I emailed copies of the same SF95 forms for each client that I had mailed to Ms. Crone in 2021, to several people at USPS, to get USPS's acknowledgment. I emailed them with delivery receipts, and that same day received the confirmation of delivery as well as the read receipt of Philip Roquemore.

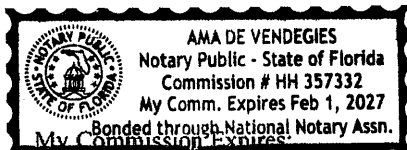
7. I then followed up that email with a written demand package for each client that I personally mailed on or about September 22, 2022. I sent them to USPS, Attn: Michelle Browder, USPS Tort Claims, P.O. Box 6127, Fort Lauderdale, FL 33310. The demand packages included the same completed SF95 forms for each client, as well as supporting medical billing and other claim information. I had previously completed a certified mail form at the office and had it with me at home.

8. I have been unable to find the certified mail receipt, and believe that it was lost or inadvertently discarded.

FURTHER AFFIANT SAYETH NAUGHT.


MARYA M. RYAN

SWORN TO AND SUBSCRIBED before me this 12 day of December, 2023,
by Marya M. Ryan, who is personally known to me or has produced License as
identification and did take an oath.






NOTARY PUBLIC, State of Florida

Print Name:

EXHIBIT B

CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008	
1. Submit to Appropriate Federal Agency: TORT CLAIMS COORDINATOR UNITED STATES POSTAL SERVICE P. O. BOX 6127 FT LAUDERDALE FL 33310-6127			2. Name, address of claimant, and claimant's personal representative if any. (See instructions on reverse). Number, Street, City, State and Zip code. Jessica Hernandez Berman law Group PO Box 272789 Boca Raton, FL 33433		
3. TYPE OF EMPLOYMENT <input type="checkbox"/> MILITARY <input checked="" type="checkbox"/> CIVILIAN		5. MARITAL STATUS Single		6. DATE AND DAY OF ACCIDENT 11/16/20	
7. TIME (A.M. OR P.M.) 2:02		8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary). See attached police report			
9. PROPERTY DAMAGE					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code).					
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED. (See instructions on reverse side). See in police report					
10. PERSONAL INJURY/WRONGFUL DEATH					
STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT. Jessica Hernandez - lower / center lumbar, cervical, left shoulder, right arm Sheila Figueroa (companion): Entire cervical, lumbar, headaches, nerve					
11. WITNESSES					
NAME		ADDRESS (Number, Street, City, State, and Zip Code)			
12. (See instructions on reverse).					
AMOUNT OF CLAIM (in dollars)					
12a. PROPERTY DAMAGE	12b. PERSONAL INJURY	12c. WRONGFUL DEATH	12d. TOTAL (Failure to specify may cause forfeiture of your rights).		
\$11,500.00	\$388,500.00	0	\$400,000.00		
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.					
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side). 			13b. PHONE NUMBER OF PERSON SIGNING FORM 561 826-5200 xT 219		14. DATE OF SIGNATURE 06/14/21
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).			CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS Fine, Imprisonment, or both. (See 18 U.S.C. 287, 1001.)		

FLORIDA TRAFFIC CRASH REPORTLONG FORM ☒ SHORT FORM ☐ UPDATE ☐HIGHWAY SAFETY & MOTOR VEHICLES,
TRAFFIC CRASH RECORDS
NEIL KIRKMAN BUILDING, TALLAHASSEE, FL 32399-0537

(Electronic Version)

Date of Crash 16/Nov/2020 02:02 PM	Time of Crash 16/Nov/2020 02:02 PM	Date of Report 16/Nov/2020 12:00 AM	Invest. Agency Report Number 20056548	HSMV Crash Report Number 89875616
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CRASH IDENTIFIERS

County Code 28	City Code 34	County of Crash PASCO	Place or City of Crash EAST RICHEY LAKES	Within City Limits Yes	Time Reported 16/Nov/2020 02:02 PM	Time Dispatched 16/Nov/2020 02:05 PM
Time on Scene 16/Nov/2020 02:10 PM	Time Cleared Scene 16/Nov/2020 02:50 PM	Completed Yes	Reason (if Investigation NOT Completed)			Notified By Law Enforcement

ROADWAY INFORMATION

Crash Occured On Street, Road, Highway N CR 807				① At Street Address# 801		② At Latitude 26.535625		and Longitude -80.091727	
At Feet	Or Miles	Direction	③ From Intersection With Street, Road, Highway					④ Or From Milepost #	
Road System Identifier 9 Parking Lot			Type Of Shoulder 3 Curb			Type Of Intersection 1 Not at Intersection			

CRASH INFORMATION (Check if Pictures Taken) ☐

Light Condition 1 Daylight	Weather Condition 1 Clear	Roadway Surface Condition 1 Dry	School Bus Related 1 No	Manner Of Collision 3 Angle
First Harmful Event Type	First Harmful Event 14	First Harmful Event Location 8 In Parking Lane or Zone	Within Interchange No	First Harmful Event Relation to Junction 1 Non-Junction
Contributing Circumstances: Road 1 None	Contributing Circumstances: Road	Contributing Circumstances: Road		
Contributing Circumstances: Environment 1 None	Contributing Circumstances: Environment	Contributing Circumstances: Environment		
Work Zone Related 1 No	Crash In Work Zone	Type Of Work Zone	Workers In Work Zone	Law Enforcement In Work Zone

VEHICLE (Check if Commercial) ☐

Vehicle 1	Motor Vehicle Type 1 Vehicle In Transport	Hit and Run 1 No	Veh License Number NONE	State FL	Reg. Expires	Permanent Reg.	VIN 3C6TRVCG8GE124776
Year 2016	Make DODGE	Model PROMASTER	Style EN	Color WHI	Extent of Damage Minor	Est. Damage 1000	Towed Due To Damage No
Insurance Company SELF INSURED UNITED STATES POSTAL SERVICE				Insurance Policy Number N/A			
Name of Vehicle Owner (Check Box If Business) UNITED STATES POSTAL SERVICE <input checked="" type="checkbox"/>				Current Address (Number and Street) 1530 W BOYNTON BEACH BLVD		City and State BOYNTON BEACH FL	
						Zip Code 33426	
Trailer One:	License Number	State	Reg. Expires	Permanent Reg.	VIN	Year	Make
Trailer Two:	License Number	State	Reg. Expires	Permanent Reg.	VIN	Year	Make
Vehicle Traveling:	Direction South	On Street, Road, Highway 801 N CR 807				At Est. Speed 10	Posted Speed 25
CMV Configuration		Cargo Body Type		Area of Initial Impact		Most Damaged Area	
Comm GVWR/GCWR 4 Not Applicable		Trailer Type (trailer one)		Trailer Type (trailer two)			
Haz. Mat. Release	Haz. Mat. Placard	Number	Class				
Motor Carrier Name			US DOT Number				
Motor Carrier Address			City and State			Zip Code	
						Phone Number	
Comm/Non-Commercial	Vehicle Body Type 17 Cargo Van (10,000 lbs (4,536 kg) or less)	Vehicle Defects (one) 1 None		Vehicle Defects (two)		Emergency Vehicle Use 1 No	Special Function of MV 1 No Special Function
Vehicle Maneuver Action 1 Straight Ahead	Trafficway 1 Two-Way, Not Divided	Roadway Grade 1 Level	Roadway Alignment 1 Straight	Most Harmful Event 2 Collision with Non-Fixed Object		Most Harmful Event Detail 14 Motor Vehicle in Transport	
Traffic Control Device For This Vehicle 6 Stop Sign	First (1) Sequence of Events 2 Collision with Non-Fixed Object 14 Motor Vehicle in Transport		Second (2) Sequence of Events		Third (3) Sequence of Events		Fourth (4) Sequence of Events

VEHICLE (Check if Commercial) ☐

Vehicle 2	Motor Vehicle Type 1 Vehicle In Transport	Hit and Run 1 No	Veh License Number AD12778	State FL	Reg. Expires 15/Dec/2020	Permanent Reg.	VIN 19XFC2F75JE004751
Year 2018	Make HONDA	Model CIVIC	Style 4D	Color BLU	Extent of Damage Functional	Est. Damage 4500	Towed Due To Damage No
Insurance Company ALLSTATE INSURANCE COMPANY				Insurance Policy Number 081223110-09020			
				Vehicle Removed By LEFT ON SCENE			
				Rotation Driver			

Date of Crash 16/Nov/2020 02:02 PM		Date of Report 16/Nov/2020 02:02 PM		Invest. Agency Report Number 20056548		HSMV Crash Report Number 89875616		
Name of Vehicle Owner (Check Box If Business) <input type="checkbox"/> JESSICA QUEEN HERNANDEZ								
Trailer One:	License Number	State	Reg. Expires	Permanent Reg.	VIN	Year	Make	
Trailer Two:	License Number	State	Reg. Expires	Permanent Reg.	VIN	Year	Make	
Vehicle Travelling:	Direction East	On Street, Road, Highway 801 N CR 807				At Est. Speed 20	Posted Speed 25	Total Lanes 4
CMV Configuration		Cargo Body Type		Area of Initial Impact		Most Damaged Area		
Comm GVWR/GCWR 4 Not Applicable		Trailer Type (trailer one)		Trailer Type (trailer two)				
Haz. Mat. Release	Haz Mat. Placard	Number		Class				
Motor Carrier Name				US DOT Number				
Motor Carrier Address				City and State		Zip Code Phone Number		
Comm/Non-Commercial	Vehicle Body Type 1 Passenger Car	Vehicle Defects (one) 1 None		Vehicle Defects (two)		Emergency Vehicle Use 1 No	Special Function of MV 1 No Special Function	
Vehicle Maneuver Action 1 Straight Ahead	Trafficway 4 Two-Way, Divided, Positive Median Barrier	Roadway Grade 1 Level	Roadway Alignment 1 Straight	Most Harmful Event 2 Collision with Non-Fixed Object		Most Harmful Event Detail 14 Motor Vehicle In Transport		
Traffic Control Device For This Vehicle 1 No Controls	First (1) Sequence of Events 2 Collision with Non-Fixed Object 14 Motor Vehicle In Transport		Second (2) Sequence of Events		Third (3) Sequence of Events		Fourth (4) Sequence of Events	

PERSON RECORD

Person# 1	Description 1 Driver	Vehicle # 1	Name JAMES DELANO HARRIS		Sex 1 Male	Re-Exam No	
State FL		Expires 04/Jul/2021	DL Type 5 E/Operator	Req. End. 3 No Req Endorsement	Injury Severity 1 None	Ejection 1 Not Ejected	
Restraint System 3 Shoulder and Lap Belt Used	Air Bag Deployed 2 Not Deployed	Helmet Use	Eye Protection	Seating Location Seat 1 Left	Seating Location Row 1 Front	Seating Location Other	
Drivers Actions at Time of Crash (first) 3 Failed to Yield Right of Way		Drivers Actions at Time of Crash (second)		Driver Distracted By 1 Not Distracted	Vision Obstruction 1 Vision Not Obscured		
Drivers Actions at Time of Crash (third)		Drivers Actions at Time of Crash (fourth)		Drivers Condition at Time of Crash 1 Apparently Normal			
Suspected Alcohol Use 1 No	Alcohol Tested	Alcohol Test Type	Alcohol Test Result	BAC	Suspected Drug Use 1 No	Drug Tested	Drug Test Type
Source of Transport to Medical Facility 1 Not Transported		EMS Agency Name or ID		EMS Run Number		Medical Facility Transported To	

PERSON RECORD

Person# 2	Description 1 Driver	Vehicle # 2	Name JESSICA QUEEN HERNANDEZ		Sex 2 Female	Re-Exam No	
State FL		Expires 06/Jul/2028	DL Type 5 E/Operator	Req. End. 3 No Req Endorsement	Injury Severity 1 None	Ejection 1 Not Ejected	
Restraint System 3 Shoulder and Lap Belt Used	Air Bag Deployed 2 Not Deployed	Helmet Use	Eye Protection	Seating Location Seat 1 Left	Seating Location Row 1 Front	Seating Location Other	
Drivers Actions at Time of Crash (first) 1 No Contributing Action		Drivers Actions at Time of Crash (second)		Driver Distracted By 1 Not Distracted	Vision Obstruction 1 Vision Not Obscured		
Drivers Actions at Time of Crash (third)		Drivers Actions at Time of Crash (fourth)		Drivers Condition at Time of Crash 1 Apparently Normal			
Suspected Alcohol Use 1 No	Alcohol Tested	Alcohol Test Type	Alcohol Test Result	BAC	Suspected Drug Use 1 No	Drug Tested	Drug Test Type
Source of Transport to Medical Facility 1 Not Transported		EMS Agency Name or ID		EMS Run Number		Medical Facility Transported To	

PERSON RECORD

Person# 3	Description 3 Passenger	Vehicle # 2	Name SHEILA COLUMBIE FIGUEROA		Sex 2 Female	Injury Severity 1 None	Ejection 1 Not Ejected
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Date of Crash 16/Nov/2020 02:02 PM	Date of Report 16/Nov/2020 02:02 PM	Invest. Agency Report Number 20056548	HSMV Crash Report Number 89875616
Restraint System 3 Shoulder and Lap Belt Used	Air Bag Deployed 2 Not Deployed	Helmet Use	Eye Protection
		Seating Location Seat 3	Seating Location Row 1
Source of Transport to Medical Facility 1 Not Transported	EMS Agency Name or ID	EMS Run Number	Medical Facility Transported To

NARRATIVE

This crash occurred on Mall Access Rd D at 801 N Congress Ave (N CR 807).

V1, a USPS mail van, was southbound in the parking lot aisle of 801 N Congress Ave approaching a stop sign.

V2 was eastbound on mall access Rd D approaching N CR 807, near the median break where V1 was about to exit the parking lot aisle.

V1 stopped at the stop sign, then proceeded into the westbound lanes of Mall Access Rd D. V1 then continued across the eastbound lanes after crossing through the median break as V2 was still eastbound. Upon doing so, the left front of V1 struck the left rear side of V2. The vehicles then moved off the access road and into a nearby parking lot.

According to D1, he was southbound in the parking lot aisle and stopped for the stop sign. He advised that he looked to the east and to the west prior to crossing over the mall access road and did not see V2 approaching. As he began to cross over the eastbound lanes, the left front of his vehicle struck the left rear of V2, which was eastbound on the access road.

According to D2, she was eastbound on the mall access road and was approaching N CR 807. As she continued eastbound on the access road, D2 stated that V1 came across the median break and into the eastbound lanes where she was traveling. D2 attempted to swerve to avoid a crash with V1, but she advised that V1 continued southbound and struck her vehicle.

There were no reported injuries and no independent witnesses. D1 was determined to be at fault for the crash, as V2 was in the right of way and did not have a stop sign. Both vehicles sustained minor damage. However, D2 advised her vehicle was not driving straight due to the left rear wheel being turned inward. Therefore, she parked her vehicle in a parking space until she was able to have the vehicle removed by a tow truck. Both drivers were provided a case number and a driver exchange of information.

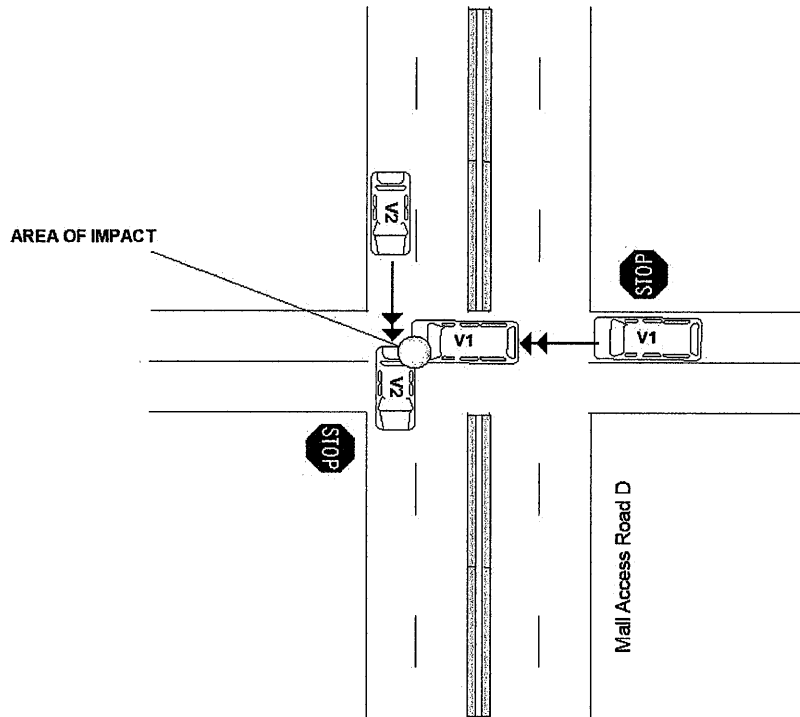
REPORTING OFFICER

ID/Badge # 971	Rank and Name OFFICER A. EICHORST	Department BOYNTON BEACH POLICE DEPARTMENT	Type of Department PD
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Date of Crash 16/Nov/2020 02:02 PM	Date of Report 16/Nov/2020 02:02 PM	Invest. Agency Report Number 20056548	HSMV Crash Report Number 89875616
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801 N Congress Ave (N CR 807)



NOT TO SCALE

EXHIBIT C

From: [Marya M. Ryan](#)
To: ["philip.roquemore@usps.gov"](mailto:philip.roquemore@usps.gov); ["kimberly.n.henley@usps.gov"](mailto:kimberly.n.henley@usps.gov); ["giovanni.a.rivera@usps.gov"](mailto:giovanni.a.rivera@usps.gov); ["gregory.c.cobb@usps.gov"](mailto:gregory.c.cobb@usps.gov)
Subject: 20-500.27137.BI Hernandez, Jessica v. United States Postal Service:
Date: Friday, June 24, 2022 11:13:01 AM
Attachments: [image001.png](#)
[image003.png](#)
[image004.png](#)
[USPS COMPLETED CLAIM FORM.pdf](#)

Please advise correct adjuster on this claim, 330-21-00492937A.

Thank you.

Regards,

Marya Ryan

PARALEGAL FOR THE FIRM

BERMAN LAW GROUP

Main Office: 3351 NW Boca Raton Blvd., Boca Raton, FL 33431

 Post Office Box 272789, Boca Raton, FL 33427

 (561) 826-5200, ext. 219

 (561) 826-5201

 mryan@thebermanlawgroup.com


BERMAN LAW GROUP



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CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008	
1. Submit to Appropriate Federal Agency: TORT CLAIMS COORDINATOR UNITED STATES POSTAL SERVICE P. O. BOX 6127 FT LAUDERDALE FL 33310-6127			2. Name, address of claimant, and claimant's personal representative if any. (See instructions on reverse). Number, Street, City, State and Zip code. <i>Sheila Figueroa</i> <i>Berman Law Group</i> <i>PO Box 272709, Boca Raton FL</i>		
3. TYPE OF EMPLOYMENT <input type="checkbox"/> MILITARY <input checked="" type="checkbox"/> CIVILIAN		5. MARITAL STATUS		6. DATE AND DAY OF ACCIDENT	
7. TIME (A.M. OR P.M.)					
8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary). <div style="font-size: 1.5em; font-family: cursive;">See attached police report</div>					
9. PROPERTY DAMAGE					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code). <i>Same as claimant</i>					
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED. (See instructions on reverse side). <div style="font-size: 1.5em; font-family: cursive;">See police report attached</div>					
10. PERSONAL INJURY/WRONGFUL DEATH					
STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT. <div style="font-size: 1.5em; font-family: cursive;">Jessica Hernandez - lower/central lumbar, cervical, left shoulder</div> <div style="font-size: 1.5em; font-family: cursive;">Sheila Figueroa: (companion) entire cervical, lumbar, head/neck</div>					
11. WITNESSES					
NAME		ADDRESS (Number, Street, City, State, and Zip Code)			
12. (See instructions on reverse).					
AMOUNT OF CLAIM (in dollars)					
12a. PROPERTY DAMAGE	12b. PERSONAL INJURY	12c. WRONGFUL DEATH	12d. TOTAL (Failure to specify may cause forfeiture of your rights).		
\$11,500.00	\$388,500.00	\$	\$400,000.00		
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.					
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side). 			13b. PHONE NUMBER OF PERSON SIGNING FORM <i>561 826 5200 x 219</i>		14. DATE OF SIGNATURE <i>06/14/21</i>
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).			CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS Fine, Imprisonment, or both. (See 18 U.S.C. 287, 1001.)		

CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008	
1. Submit to Appropriate Federal Agency: TORT CLAIMS COORDINATOR UNITED STATES POSTAL SERVICE P. O. BOX 6127 FT LAUDERDALE FL 33310-6127		2. Name, address of claimant, and claimant's personal representative if any. (See instructions on reverse). Number, Street, City, State and Zip code. Jessica Hernandez Berman law Group PO Box 272789 Boca Raton, FL 33433			
3. TYPE OF EMPLOYMENT <input type="checkbox"/> MILITARY <input checked="" type="checkbox"/> CIVILIAN		5. MARITAL STATUS Single		6. DATE AND DAY OF ACCIDENT 11/16/20	
7. TIME (A.M. OR P.M.) 2:02		8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary). See attached police report			
9. PROPERTY DAMAGE					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code).					
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED. (See instructions on reverse side). See in police report					
10. PERSONAL INJURY/WRONGFUL DEATH					
STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT. Jessica Hernandez - lower / center lumbar, cervical, left shoulder, right arm Sheila Figueroa (companion): Entire cervical, lumbar, headaches, nerve					
11. WITNESSES					
NAME		ADDRESS (Number, Street, City, State, and Zip Code)			
12. (See instructions on reverse).					
		AMOUNT OF CLAIM (in dollars)			
12a. PROPERTY DAMAGE	12b. PERSONAL INJURY	12c. WRONGFUL DEATH	12d. TOTAL (Failure to specify may cause forfeiture of your rights).		
\$11,500.00	\$388,500.00	0	\$400,000.00		
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.					
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side). 			13b. PHONE NUMBER OF PERSON SIGNING FORM 561 826-5200 xT 219		14. DATE OF SIGNATURE 06/14/21
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).			CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS Fine, Imprisonment, or both. (See 18 U.S.C. 287, 1001.)		

FLORIDA TRAFFIC CRASH REPORTLONG FORM ☒ SHORT FORM ☐ UPDATE ☐HIGHWAY SAFETY & MOTOR VEHICLES,
TRAFFIC CRASH RECORDS
NEIL KIRKMAN BUILDING, TALLAHASSEE, FL 32399-0537

(Electronic Version)

Date of Crash 16/Nov/2020 02:02 PM	Time of Crash 16/Nov/2020 02:02 PM	Date of Report 16/Nov/2020 12:00 AM	Invest. Agency Report Number 20056548	HSMV Crash Report Number 89875616
---------------------------------------	---------------------------------------	--	--	--------------------------------------

CRASH IDENTIFIERS

County Code 28	City Code 34	County of Crash PASCO	Place or City of Crash EAST RICHEY LAKES	Within City Limits Yes	Time Reported 16/Nov/2020 02:02 PM	Time Dispatched 16/Nov/2020 02:05 PM
Time on Scene 16/Nov/2020 02:10 PM	Time Cleared Scene 16/Nov/2020 02:50 PM	Completed Yes	Reason (if Investigation NOT Completed)			Notified By Law Enforcement

ROADWAY INFORMATION

Crash Occured On Street, Road, Highway N CR 807		① At Street Address# 801	② At Latitude 26.535625	and Longitude -80.091727
At Feet	Or Miles	Direction	③ From Intersection With Street, Road, Highway	
Road System Identifier 9 Parking Lot		Type Of Shoulder 3 Curb	Type Of Intersection 1 Not at Intersection	

CRASH INFORMATION (Check if Pictures Taken) ☐

Light Condition 1 Daylight	Weather Condition 1 Clear	Roadway Surface Condition 1 Dry	School Bus Related 1 No	Manner Of Collision 3 Angle
First Harmful Event Type	First Harmful Event 14	First Harmful Event Location 8 In Parking Lane or Zone	Within Interchange No	First Harmful Event Relation to Junction 1 Non-Junction
Contributing Circumstances: Road 1 None		Contributing Circumstances: Road		Contributing Circumstances: Road
Contributing Circumstances: Environment 1 None		Contributing Circumstances: Environment		Contributing Circumstances: Environment
Work Zone Related 1 No	Crash In Work Zone	Type Of Work Zone	Workers In Work Zone	Law Enforcement In Work Zone

VEHICLE (Check if Commercial) ☐

Vehicle 1	Motor Vehicle Type 1 Vehicle In Transport	Hit and Run 1 No	Veh License Number NONE	State FL	Reg. Expires	Permanent Reg.	VIN 3C6TRVCG8GE124776
Year 2016	Make DODGE	Model PROMASTER	Style EN	Color WHI	Extent of Damage Minor	Est. Damage 1000	Towed Due To Damage No
Insurance Company SELF INSURED UNITED STATES POSTAL SERVICE		Insurance Policy Number N/A					
Name of Vehicle Owner (Check Box If Business) UNITED STATES POSTAL SERVICE <input checked="" type="checkbox"/>			Current Address (Number and Street) 1530 W BOYNTON BEACH BLVD			City and State BOYNTON BEACH FL	
						Zip Code 33426	
Trailer One:	License Number	State	Reg. Expires	Permanent Reg.	VIN	Year	Make
Trailer Two:	License Number	State	Reg. Expires	Permanent Reg.	VIN	Year	Make
Vehicle Traveling:	Direction South	On Street, Road, Highway 801 N CR 807				At Est. Speed 10	Posted Speed 25
CMV Configuration		Cargo Body Type		Area of Initial Impact		Most Damaged Area	
Comm GVWR/GCWR 4 Not Applicable		Trailer Type (trailer one)		Trailer Type (trailer two)			
Haz. Mat. Release	Haz. Mat. Placard	Number	Class				
Motor Carrier Name			US DOT Number				
Motor Carrier Address			City and State			Zip Code	
						Phone Number	
Comm/Non-Commercial	Vehicle Body Type 17 Cargo Van (10,000 lbs (4,536 kg) or less)	Vehicle Defects (one) 1 None		Vehicle Defects (two)		Emergency Vehicle Use 1 No	Special Function of MV 1 No Special Function
Vehicle Maneuver Action 1 Straight Ahead	Trafficway 1 Two-Way, Not Divided	Roadway Grade 1 Level	Roadway Alignment 1 Straight	Most Harmful Event 2 Collision with Non-Fixed Object		Most Harmful Event Detail 14 Motor Vehicle in Transport	
Traffic Control Device For This Vehicle 6 Stop Sign	First (1) Sequence of Events 2 Collision with Non-Fixed Object 14 Motor Vehicle in Transport		Second (2) Sequence of Events		Third (3) Sequence of Events		Fourth (4) Sequence of Events

VEHICLE (Check if Commercial) ☐

Vehicle 2	Motor Vehicle Type 1 Vehicle In Transport	Hit and Run 1 No	Veh License Number AD12778	State FL	Reg. Expires 15/Dec/2020	Permanent Reg.	VIN 19XFC2F75JE004751
Year 2018	Make HONDA	Model CIVIC	Style 4D	Color BLU	Extent of Damage Functional	Est. Damage 4500	Towed Due To Damage No
Insurance Company ALLSTATE INSURANCE COMPANY		Insurance Policy Number 081223110-09020					

Date of Crash 16/Nov/2020 02:02 PM		Date of Report 16/Nov/2020 02:02 PM		Invest. Agency Report Number 20056548		HSMV Crash Report Number 89875616	
Name of Vehicle Owner (Check Box If Business) <input type="checkbox"/> JESSICA QUEEN HERNANDEZ							
Trailer One:	License Number	State	Reg. Expires	Permanent Reg.	VIN	Year	Make
Trailer Two:	License Number	State	Reg. Expires	Permanent Reg.	VIN	Year	Make
Vehicle Traveling:	Direction East	On Street, Road, Highway 801 N CR 807				At Est. Speed 20	Posted Speed 25
CMV Configuration		Cargo Body Type		Area of Initial Impact		Most Damaged Area	
Comm GVWR/GCWR 4 Not Applicable		Trailer Type (trailer one)		Trailer Type (trailer two)			
Haz. Mat. Release	Haz Mat. Placard	Number		Class			
Motor Carrier Name				US DOT Number			
Motor Carrier Address				City and State		Zip Code Phone Number	
Comm/Non-Commercial	Vehicle Body Type 1 Passenger Car	Vehicle Defects (one) 1 None		Vehicle Defects (two)		Emergency Vehicle Use 1 No	Special Function of MV 1 No Special Function
Vehicle Maneuver Action 1 Straight Ahead	Trafficway 4 Two-Way, Divided, Positive Median Barrier	Roadway Grade 1 Level	Roadway Alignment 1 Straight	Most Harmful Event 2 Collision with Non-Fixed Object		Most Harmful Event Detail 14 Motor Vehicle In Transport	
Traffic Control Device For This Vehicle 1 No Controls	First (1) Sequence of Events 2 Collision with Non-Fixed Object		Second (2) Sequence of Events		Third (3) Sequence of Events		Fourth (4) Sequence of Events

PERSON RECORD

Person# 1	Description 1 Driver	Vehicle # 1	Name JAMES DELANO HARRIS		Sex 1 Male	Re-Exam No	
State FL		Expires 04/Jul/2021	DL Type 5 E/Operator	Req. End. 3 No Req Endorsement	Injury Severity 1 None	Ejection 1 Not Ejected	
Restraint System 3 Shoulder and Lap Belt Used	Air Bag Deployed 2 Not Deployed	Helmet Use	Eye Protection	Seating Location Seat 1 Left	Seating Location Row 1 Front	Seating Location Other	
Drivers Actions at Time of Crash (first) 3 Failed to Yield Right of Way		Drivers Actions at Time of Crash (second)		Driver Distracted By 1 Not Distracted	Vision Obstruction 1 Vision Not Obscured		
Drivers Actions at Time of Crash (third)		Drivers Actions at Time of Crash (fourth)		Drivers Condition at Time of Crash 1 Apparently Normal			
Suspected Alcohol Use 1 No	Alcohol Tested	Alcohol Test Type	Alcohol Test Result	BAC	Suspected Drug Use 1 No	Drug Tested	Drug Test Type
Source of Transport to Medical Facility 1 Not Transported		EMS Agency Name or ID		EMS Run Number		Medical Facility Transported To	

PERSON RECORD

Person# 2	Description 1 Driver	Vehicle # 2	Name JESSICA QUEEN HERNANDEZ		Sex 2 Female	Re-Exam No	
State FL		Expires 06/Jul/2028	DL Type 5 E/Operator	Req. End. 3 No Req Endorsement	Injury Severity 1 None	Ejection 1 Not Ejected	
Restraint System 3 Shoulder and Lap Belt Used	Air Bag Deployed 2 Not Deployed	Helmet Use	Eye Protection	Seating Location Seat 1 Left	Seating Location Row 1 Front	Seating Location Other	
Drivers Actions at Time of Crash (first) 1 No Contributing Action		Drivers Actions at Time of Crash (second)		Driver Distracted By 1 Not Distracted	Vision Obstruction 1 Vision Not Obscured		
Drivers Actions at Time of Crash (third)		Drivers Actions at Time of Crash (fourth)		Drivers Condition at Time of Crash 1 Apparently Normal			
Suspected Alcohol Use 1 No	Alcohol Tested	Alcohol Test Type	Alcohol Test Result	BAC	Suspected Drug Use 1 No	Drug Tested	Drug Test Type
Source of Transport to Medical Facility 1 Not Transported		EMS Agency Name or ID		EMS Run Number		Medical Facility Transported To	

PERSON RECORD

Person# 3	Description 3 Passenger	Vehicle # 2	Name SHEILA COLUMBIE FIGUEROA		Sex 2 Female	Injury Severity 1 None	Ejection 1 Not Ejected
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Date of Crash 16/Nov/2020 02:02 PM	Date of Report 16/Nov/2020 02:02 PM	Invest. Agency Report Number 20056548	HSMV Crash Report Number 89875616
Restraint System 3 Shoulder and Lap Belt Used	Air Bag Deployed 2 Not Deployed	Helmet Use	Eye Protection
		Seating Location Seat 3	Seating Location Row 1
Source of Transport to Medical Facility 1 Not Transported	EMS Agency Name or ID	EMS Run Number	Medical Facility Transported To

NARRATIVE

This crash occurred on Mall Access Rd D at 801 N Congress Ave (N CR 807).

V1, a USPS mail van, was southbound in the parking lot aisle of 801 N Congress Ave approaching a stop sign.

V2 was eastbound on mall access Rd D approaching N CR 807, near the median break where V1 was about to exit the parking lot aisle.

V1 stopped at the stop sign, then proceeded into the westbound lanes of Mall Access Rd D. V1 then continued across the eastbound lanes after crossing through the median break as V2 was still eastbound. Upon doing so, the left front of V1 struck the left rear side of V2. The vehicles then moved off the access road and into a nearby parking lot.

According to D1, he was southbound in the parking lot aisle and stopped for the stop sign. He advised that he looked to the east and to the west prior to crossing over the mall access road and did not see V2 approaching. As he began to cross over the eastbound lanes, the left front of his vehicle struck the left rear of V2, which was eastbound on the access road.

According to D2, she was eastbound on the mall access road and was approaching N CR 807. As she continued eastbound on the access road, D2 stated that V1 came across the median break and into the eastbound lanes where she was traveling. D2 attempted to swerve to avoid a crash with V1, but she advised that V1 continued southbound and struck her vehicle.

There were no reported injuries and no independent witnesses. D1 was determined to be at fault for the crash, as V2 was in the right of way and did not have a stop sign. Both vehicles sustained minor damage. However, D2 advised her vehicle was not driving straight due to the left rear wheel being turned inward. Therefore, she parked her vehicle in a parking space until she was able to have the vehicle removed by a tow truck. Both drivers were provided a case number and a driver exchange of information.

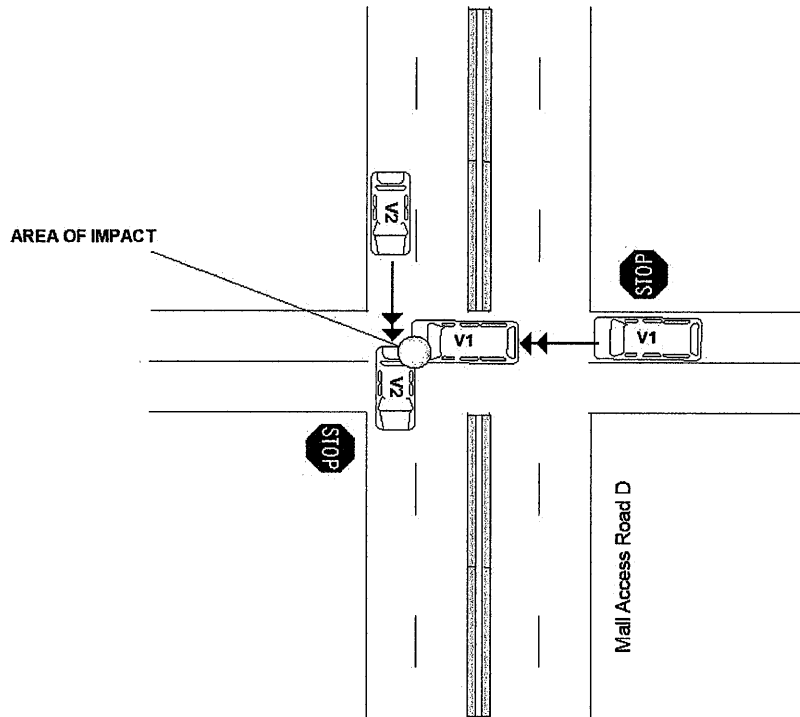
REPORTING OFFICER

ID/Badge # 971	Rank and Name OFFICER A. EICHORST	Department BOYNTON BEACH POLICE DEPARTMENT	Type of Department PD
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Date of Crash 16/Nov/2020 02:02 PM	Date of Report 16/Nov/2020 02:02 PM	Invest. Agency Report Number 20056548	HSMV Crash Report Number 89875616
---------------------------------------	--	--	--------------------------------------



801 N Congress Ave (N CR 807)



NOT TO SCALE

EXHIBIT D

Madison Gebig

From: postmaster@usps365.onmicrosoft.com
To: 'philip.roquemoire@usps.gov'
Sent: Friday, June 24, 2022 11:13 AM
Subject: Delivered: [EXTERNAL] 20-500.27137.BI Hernandez, Jessica v. United States Postal Service:

Your message has been delivered to the following recipients:

'philip.roquemoire@usps.gov'

Subject: [EXTERNAL] 20-500.27137.BI Hernandez, Jessica v. United States Postal Service:

Madison Gebig

From: Roquemoire, Philip - Detroit, MI <philip.roquemoire@usps.gov>
To: Marya M. Ryan
Sent: Friday, June 24, 2022 11:24 AM
Subject: Read: [EXTERNAL] 20-500.27137.BI Hernandez, Jessica v. United States Postal Service:

Your message was read on Friday, June 24, 2022 3:23:56 PM UTC.

Madison Gebig

From: postmaster@usps365.onmicrosoft.com
To: 'gregory.c.cobb@usps.gov'
Sent: Friday, June 24, 2022 11:13 AM
Subject: Delivered: [EXTERNAL] 20-500.27137.BI Hernandez, Jessica v. United States Postal Service:

Your message has been delivered to the following recipients:

'gregory.c.cobb@usps.gov'

Subject: [EXTERNAL] 20-500.27137.BI Hernandez, Jessica v. United States Postal Service:

Madison Gebig

From: Cobb, Gregory C - Jacksonville, FL <Gregory.C.Cobb@usps.gov>
To: Marya M. Ryan
Sent: Friday, June 24, 2022 11:19 AM
Subject: Not read: [EXTERNAL] 20-500.27137.BI Hernandez, Jessica v. United States Postal Service:

Your message was deleted without being read on Friday, June 24, 2022 3:19:07 PM UTC.

Madison Gebig

From: postmaster@usps365.onmicrosoft.com
To: 'giovanni.a.rivera@usps.gov'
Sent: Friday, June 24, 2022 11:13 AM
Subject: Delivered: [EXTERNAL] 20-500.27137.BI Hernandez, Jessica v. United States Postal Service:

Your message has been delivered to the following recipients:

'giovanni.a.rivera@usps.gov'

Subject: [EXTERNAL] 20-500.27137.BI Hernandez, Jessica v. United States Postal Service:

Madison Gebig

From: postmaster@usps365.onmicrosoft.com
To: 'kimberly.n.henley@usps.gov'
Sent: Friday, June 24, 2022 11:13 AM
Subject: Delivered: [EXTERNAL] 20-500.27137.BI Hernandez, Jessica v. United States Postal Service:

Your message has been delivered to the following recipients:

'kimberly.n.henley@usps.gov'

Subject: [EXTERNAL] 20-500.27137.BI Hernandez, Jessica v. United States Postal Service:

EXHIBIT E



Administrative Services

ASM REVISION

Tort Claims

Effective December 22, 2005, the *Administrative Support Manual* (ASM), subchapter 25, is revised to reflect the current procedures and organizational responsibilities for investigating accidents and adjudicating tort claims under the existing Postal ServiceTM organizational structure. Certain tort claims are no longer adjudicated at the San Mateo Accounting Service Center and are now adjudicated at the St. Louis Accounting Service Center. Tort claim adjudication at the district office level is the responsibility of customer service analysts who have been designated as tort claims coordinators. The revisions were also necessary to reflect the organizational changes made in the General Counsel organization. Previously, tort claims and tort litigation were handled by the General Counsel's field offices. In 2002, the National Tort Center was established to adjudicate tort claims and manage tort litigation.

Administrative Support Manual (ASM)

2 Audits and Investigations

25 Tort Claims

251 Responsibilities

[Revise title of 251.1 to read as follows:]

251.1 Definition

[Add text to read as follows:]

Tort claims are claims for damage to or loss of property, personal injury, or death to nonpostal personnel caused by the negligent or wrongful act or omission of an employee while acting within the scope of employment.

[Delete sections 251.11 through 251.2. Insert new sections 251.2 through 251.4 to read as follows:]

251.2 Authority

The Postal Service is authorized to settle tort claims pursuant to the provisions of the Federal Tort Claims Act and related regulations. 39 U.S.C. Section 409(c); 28 U.S.C. Section 2672; 28 C.F.R. Section 14.

251.3 Policy

Postal Service policy is to promptly and willingly discharge its legal responsibility to those persons who claim damages pursuant to the Federal Tort Claims Act.

251.4 General Services Administration (GSA)

General Services Administration is responsible for tort claims arising from accidents at facilities under GSA control, when the accident is not caused by postal employee negligence.

252 Accident Investigation

[Revise title of 252.1 to read as follows:]

252.1 Installation Head or Designee

[Renumber text under 252.1 as 252.11. Add sections 252.12 through 252.18 to read as follows:]

252.12 On-Scene Investigations

Prompt on-scene investigations are required for both vehicular and nonvehicular accidents that involve damage to private property or personal injury to a private party, or for those that involve damage to postal property caused by the actions of a private party. District tort claims coordinators do not generally conduct on-scene investigations. The initial investigation is the responsibility of the installation head or employees that have been designated by the installation head as on-scene investigators. The on-scene investigator should contact his or her district tort claims coordinator at the time of an investigation or immediately after returning from the accident scene. Further investigation may be required based on the advice of the tort claims coordinator.

252.13 Duties

The on-scene investigator has the following responsibilities:

- a. Conduct both an on-scene and a follow-up investigation of all postal-related accidents that involve damage to private property or personal injury to private parties. Investigations must include the completion of required investigation forms and photographs of the accident scene, as well as photographs of any vehicles involved in the accident and any other objects relevant to the accident (make sure to record on the photographs, or on an attached form, the photographer's name, the date the photograph was taken, and a description of the subject of each photograph). Detailed investigation instructions are located in Handbook PO-702, *Accident Investigations - Tort Claims*.

252.18 Other Accident Investigation Responsibilities

Tort claim investigation procedures do not replace or otherwise reduce a manager's or supervisor's investigation obligations under the Postal Service's Safety Program, which are set forth in detail in parts 821 and 822 of the *Employee and Labor Relations Manual*.

[Delete sections 252.2 to 252.4. Add new 252.2 to read as follows:]

252.2 Tort Claims Coordinator

252.21 Designation

Each district designates a customer service analyst (or on occasion some other appropriate employee) to serve as the district tort claims coordinator. The individual assigned must be properly trained to perform this function.

252.22 Duties

The district tort claims coordinator has the following responsibilities (Handbook PO-702, *Accident Investigations - Tort Claims*, fully details the tort claims coordinator function):

- a. Advises Post Office personnel and promotes their accident investigation proficiency.
- b. Makes sure that all information, exhibits, and documentation about accidents involving personal injury to private persons or damage to private property are gathered and forwarded in a timely manner for their evaluation.
- c. When a claim is received, determines if any necessary follow-up action is required.
- d. Ensures that, when applicable, claims are settled and payments made within the tort claims coordinator's authority (see 254.1).
- e. Promptly forwards the completed investigative file to the adjudicating authority (see 254) when a tort claims coordinator cannot resolve the matter locally.
- f. Decides whether personal assistance is necessary at the scene or if guidance to the local investigator suffices when notified of the accident.
- g. Makes and negotiates affirmative claims on behalf of the Postal Service for damages to Postal Service vehicles and/or real property resulting from the negligence of others.

[Revise title of 253 to read as follows:]

253 Administrative Claim Procedures

[Revise sections 253.1 and 253.2 to read as follows:]

253.1 Assistance

Any person who inquires about how to file a claim should be advised to contact the district tort claims coordinator, who will provide a full explanation of the claim procedures and an SF 95, *Claim for Damage, Injury, or Death*. However, written tort claims can be filed and must be accepted at any Post Office or other postal facility.

253.2 General Instructions

Any postal employee who receives a completed tort claim form or other writing indicating that it is a claim should immediately stamp or write the date received on the claim and on any copies of the claim, and sign his or her name next to the date. The claim should then be forwarded to the district tort claims coordinator.

[Add section 253.3 to read as follows:]

253.3 Restrictions

Except as required by law, Postal Service management employees should not provide information to any nonpostal personnel (including lawyers, private investigators, insurance adjusters, etc.) regarding a postal accident or tort claim without prior approval from the tort claims coordinator or the Postal Service Law Department.

[Revise title of 254 to read as follows:]

254 Claims Payment Authority

[Revise 254.1 to read as follows:]

254.1 Local Payment of Personal Injury and Property Damage Claims

District managers, or their designees, are authorized to expend up to \$5,000 to resolve tort claims. District tort claims coordinators are designated to exercise that authority by negotiating with tort claimants, though the approval of an intermediate manager may be required prior to payment. When it is in the interests of the Postal Service, tort claim coordinators can on occasion resolve

- b. Submit a report of each accident to the district tort claims coordinator and include all required investigation forms and photographs. Keep a file (copies of all forms and photographs) in the installation files.
- claims for an amount greater than \$5,000, but only when receiving prior authorization from a Law Department attorney. Any such authorization is provided after Law Department review of the claim and it must be in writing (correspondence, facsimile, or electronic mail).

252.14 Forms Required

252.141 Standard Form 91

Standard Form 91 (SF 91), *Motor Vehicle Accident Report*, is carried in each government motor vehicle, privately owned government-operated motor vehicle, and by each employee using a bicycle or light vehicle. The form is filled out by the driver of any vehicle involved in an accident, regardless of the extent of injury or damage, and whether or not the parties involved state that a claim will be filed. Vehicle operators should not give any statements, written or oral, at the scene of the accident, except information required by law to be furnished to a police officer, other drivers, or parties involved. The driver's supervisor should complete SF 91 Section X, Details of Trip during Which Accident Occurred. This section should include the supervisor's certification as to whether the postal employee was acting in the scope of his or her employment at the time of the accident.

252.142 Form 1700

Form 1700, *Accident Investigation Worksheet*, must be completed for both vehicle and nonvehicle accidents by the on-scene investigator.

252.143 Standard Form 94

Standard Form 94, *Statement of Witness*, must be provided to all available witnesses to an accident. Instruct vehicle operators and other employees to obtain the names and addresses of any persons who may have witnessed the accident.

252.15 Accidents Involving GSA-Controlled Buildings

Advise the GSA building manager or other GSA official, as soon as practical, of the accident. Conduct a normal investigation whenever the accident involves a postal customer or the area of the building where the accident occurred is used by the Postal Service.

252.16 Accidents Involving Non-Postal Service-Owned Vehicles

A normal investigation should be conducted if a postal employee acting within the scope of his or her duties is involved in an accident while operating a leased or rented vehicle, a GSA vehicle, or his or her own private vehicle. An investigation should also be conducted when a rural letter carrier is involved in an accident on the way to or from work in the vehicle he or she uses to carry the mail on his or her route.

252.17 Accidents in Leased Facilities

Investigate all accidents involving private persons that occur in leased or rented postal facilities just as fully as those occurring on postal-owned premises. In accidents caused by or alleged to be the result of structural defect, state if, when, and how notice of the defect and needed repairs was given by the Postal Service to the landlord before the accident occurred. Advise whether or not the lease contains a provision requiring the landlord to make repairs.

[Revise 254.2 through 254.4 to read as follows:]

254.2 Multiple Claims

If more than one claim arises out of a single accident, the district manager's designee may resolve each claim presented, if none of the claims received or anticipated exceed the delegated authority of \$5,000.

254.3 Unauthorized Payments

Tort payments should not be made by tort claims coordinators on any of the following types of claims:

- Any claim arising out of the loss, miscarriage, or negligent transmission of letters or postal matter.
- Any claim arising out of assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights.
- Any claim submitted by a federal agency.
- Any personal injury claim submitted by a postal or other federal employee acting in the scope of their employment.
- Any claim for damage caused in an accident where the motor vehicle involved was operated by an independent contractor, such as a highway contract route carrier.

254.4 Denial of Claims

Local postal officials are not authorized to deny tort claims. Claims that are recommended for denial by the tort claims coordinator must be forwarded to the appropriate adjudicating authority.

* * * * *

We will incorporate these revisions into the next printed version of the ASM, and also into the online version, available on the Postal Service PolicyNet Web site:

- Go to <http://blue.usps.gov>.
- Under "Essential Links" in the left-hand column, click on *References*.
- Under "References" in the right-hand column, under "Policies," click on *PolicyNet*.
- Click on *Manuals*.

(The direct URL for the Postal Service PolicyNet Web site is <http://blue.usps.gov/cpim>.)

— General Counsel, 12-22-05

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EXHIBIT F

LAW DEPARTMENT
NATIONAL TORT CENTER



CERTIFIED NO. 9589 0710 5270 0830 5633 21
RETURN RECEIPT REQUESTED

February 12, 2024

Matthew Moore
Berman Law Group
P.O. Box 272789
Boaca Raton, FL 33427

RE: Claimant: Jessica Hernandez
Date of Incident: November 16, 2020
NTC File No.: NT202310219

Dear Mr. Moore:

This is in reference to the administrative claim you filed on behalf of the above-referenced claimant under the provisions of the Federal Tort Claims Act, as a result of injuries allegedly sustained on or about November 16, 2020.

Pursuant to 28 U.S.C. §2401(b), the statute of limitations period for an action brought pursuant to the Federal Tort Claims Act is two years. This claim was received by the Postal Service on November 28, 2022. Accordingly, we have no authority to consider this claim, as it was filed beyond the time period established by statute, therefore, this claim is denied.

In accordance with 28 U.S.C. § 2401(b) and 39 C.F.R. 912.9(a), if dissatisfied with the Postal Service's final denial of an administrative claim, a claimant may file suit in a United States District Court no later than six (6) months after the date the Postal Service *mails* the notice of that final action. Accordingly, any suit filed in regards to this denial must be filed no later than six (6) months from the date of the mailing of this letter, which is the date shown above. Further, note the United States of America is the only proper defendant in a civil action brought pursuant to the Federal Tort Claims Act and such suit may be heard only by a federal district court.

Alternatively, and in accordance with the regulations set out at 39 C.F.R. 912.9(b), prior to the commencement of suit and prior to the expiration of the six (6) month period provided in 28 U.S.C. § 2401(b), a claimant, his duly authorized agent, or legal representative, may file a written request for reconsideration with the postal official who issued the final denial of the claim. Upon the timely filing of a request for reconsideration, the Postal Service shall have six (6) months from the date of filing in

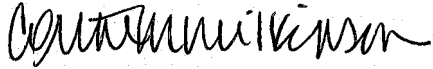
1720 MARKET STREET, ROOM 2400
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TEL: 314/345-5820
FAX: 314/345-5893

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which to make a disposition of the claim and the claimant's option under 28 U.S.C. § 2675(a) shall not accrue until six (6) months after the filing of the request for reconsideration.

A request for reconsideration of a final denial of a claim shall be deemed to have been filed when received in this office.

Sincerely,

A handwritten signature in black ink, appearing to read "Corine M. Wilkinson", written in a cursive style.

Corine M. Wilkinson

Tort Claims Examiner/Adjudicator

United States Postal Service - National Torts Center

1720 Market Street, Room 2400, St. Louis, Missouri 63155-9948

T: 860.285.7344 | C: 413.312.8122

F: 651.306.6443 | Email: Corine.M.Wilkinson@usps.gov

cc: Joe Gennaro
Tort Claims/Collections Specialist
File No. 330-21-00592937A